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Subject

Comptroller

4 November 1952

Office of General Counsel

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Allowances Payable to Detailed Military Personnel by CIA
[REDACTED]

- REFERENCE: 1. Memorandum from Comptroller to General Counsel, dated 21 October 1952
25X1A 2. Memorandum from [REDACTED] dated 4 March 1952
25X1A 3. Memorandum from Office of the General Counsel to Personnel Director, dated 30 June 1952
25X1A 4. Cable from Director to Senior Representative, [REDACTED] dated 17 September 1952
25X1A 5. Cable from [REDACTED] to Washington, dated 1 October 1952

1. Your memorandum of 21 October 1952, cited above, requests the opinion of this office concerning the allowances paid to [REDACTED] an Army Lieutenant Colonel on detail to CIA and stationed in [REDACTED]. In addition, the question has been considered whether a commitment may have been made by a responsible Agency official that might not have been considered by the Finance Division in their determination of allowances payable to [REDACTED]. A review of the file and an informal check with the Finance Division indicates that the allowances approved by Finance are more favorable to [REDACTED] than those authorized by paragraph 5 of reference 2. above, and are in accord with existing law and regulation.

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2. It must be pointed out that the question here presented is not one that is grounded in Agency regulations or Agency authority for the expenditure of funds. It is grounded in the dual compensation statutes, Title 5 U.S.C.A., sections 69 and 70, which prohibit the receipt of unauthorized emoluments by Federal employees, military or civilian. In consequence, in the absence of specific legislation authorizing CIA to pay increased salary or allowances, or other authority having the same effect, the payment of compensation in any form to a military officer, in addition to his military pay and allowances, is forbidden. (Johnson v. United States, 175 F²d 612).

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a. The basis for [REDACTED] Regulations is Part K, Paragraph 6500, Joint Travel Regulations for Uniformed Services, effective 1 April 1951, which reads as follows:

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"unless otherwise provided for or restricted by law, a member on loan, assignment, or detail to another department or agency may be authorized travel, transportation or station allowances pertaining to such other department or agency or those pertaining to his own department or agency, whichever is greater." (Emphasis supplied).

The question presented is considered under this authority.

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3. It is our understanding that at the time [REDACTED] was assigned
the Army had not established a station allowance for [REDACTED]
In consequence, he was authorized and credited, "maximum post and
living quarters allowance extended to a civilian employee of Grade
GS-14 at your (his) permanent station." In addition, paragraph 5 of
his instructions (Reference 2. above) states:

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"...Such station allowance for the [redacted] area paid you by the United States Army will be subtracted from the GS-14 allowance, and the difference will be paid by this Agency. Quarters allowance will be claimed in accordance with the Standardized Civilian Allowance Regulations."

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In a word, [REDACTED] was authorized, in accordance with GS-11; assimilated grade, temporary lodging, cost of living, additional dependency allowance and civilian quarters allowance; less any allowances received from the military; at that time, only the military quarters allowance. However, on 1 March 1952, we are informed, the Army established a post allowance [REDACTED]. This post allowance, received from the Army, when added to the military quarters allowance, exceeded the total of the civilian allowances. Although contrary to the letter of instructions, this excess received from the Army is not subject to collection. A military officer is at all times entitled by statute to receive the pay and allowances of his grade. No action by this Agency may limit that minimum standard.

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4. From the foregoing, it is clear that the proposals outlined by [REDACTED] (Reference 5. above) cannot be authorized. Part X of paragraph 6500, J.T.R.U.S., authorizes this Agency, in its discretion to authorize the "station allowances" established by CIA, or the "station allowances" granted by the Army, whichever is greater. It does not authorize the officer to elect between the various elements of station allowances to arrive at a total far in excess of either.

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